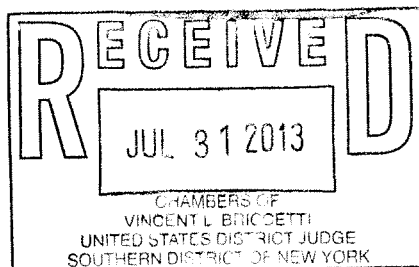


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July 31, 2013

By Facsimile

Hon. Vincent L. Briccetti
United States Courthouse
300 Quarropas Street, Room 630
White Plains, New York 10601

Re: Miller v. Wells Fargo Bank, N.A., et al., No. 13-cv-01541-VB

Dear Judge Briccetti:

We are co-counsel to defendants Wells Fargo Bank, N.A. and Wells Fargo Insurance, Inc. (together, "Wells Fargo") in the above-referenced action. To the extent the Court considers "Plaintiff's Notice of Supplemental Authority in Further Opposition to Defendants' Motions to Dismiss," filed on July 24, 2013 (the "Notice"), Wells Fargo submits this response.

The Notice appends two cases: *Leghorn v. Wells Fargo Bank*, 2013 WL 3064548 (N.D. Cal. June 19, 2013), and *Lane v. Wells Fargo Bank*, 2013 WL 3187410 (N.D. Cal. June 21, 2013). As briefly set forth below, *Leghorn* should not guide the Court, and *Lane* is irrelevant.

Leghorn adhered to earlier decisions that refused to dismiss the "backdating" and "kickback" theories. Wells Fargo's reply (at 3, 5-6, 8 n.14) explained why those decisions are incorrect—explanations that apply with equal force to *Leghorn*. Moreover, after careful consideration, a subsequent decision from the same district dismissed the "backdating" theory with prejudice. *Cannon v. Wells Fargo Bank*, 2013 WL 3388222 (N.D. Cal. July 2, 2013). Finally, *Leghorn* applied California, not New York, law, and did not involve RICO or fiduciary duty claims.

Lane refused to certify a nationwide class of borrowers and instead certified only a narrow class of California borrowers with a particular form of mortgage. *Lane* is irrelevant to this dismissal motion, which involves an entirely different legal issue—failure to state a claim.

Thank you for Your Honor's consideration.

Respectfully submitted,

Lisa J. Fried

Lisa J. Fried

Hon. Vincent L. Briccetti

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July 31, 2013

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